

Immunex Corporation
USSN 09/904,954

Attorney Docket No. 2814-G

AMENDMENT

In the Specification:

Please replace the first paragraph on the first page of the specification, after the heading "CROSS-REFERENCE TO RELATED APPLICATIONS", with the following:

This application is divisional of application Serial No 09/358,734, filed July 21, 1999, now U.S. Patent 6,274,117, which is a divisional of application Serial No 09/057,121, filed April 8, 1998, now U.S. Patent 5,969,110, which is a divisional of application Serial No. 08/453,943, filed May 30, 1995, now U.S. Patent 5,738,844, which is a divisional of application Serial No. 08/240,124, filed May 9, 1994, now U.S. Patent 5,516,658, which is a continuation-in-part of application Serial No. 08/161,132, filed December 3, 1993, now abandoned, which is a continuation-in-part of application Serial No. 08/114,426, filed August 30, 1993, now abandoned, which is a continuation-in-part of application Serial No. 08/109,745, filed August 20, 1993, now abandoned.

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REMARKS

The Amendment

The specification has been amended to update the status of parent applications and to correct an obvious typographical error. Now new matter is added by these amendments. A version of the amended paragraph with markings to show changes made is attached as an Appendix.

The Information Disclosure Statement

An Information Disclosure Statement and Form 1449 were filed in connection with the present application on February 27, 2002. It is respectfully requested that the next Office Action from the Office include an acknowledgement of receipt of these documents.

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The Restriction Requirement

The requirement for restriction is traversed on the grounds that examination of Groups I, II, and III in the same application would cause no undue search requirement, and because Groups II and III have not been shown to be independent and distinct.

Applicants submit that examination in this application of Groups I, II and III would not impose an extra or undue burden on the Examiner. Group I relates to polynucleotides encoding cytokines capable of binding hek, and Group II relates to a method of binding hek. Thus, both groups relate to cytokines capable of binding hek. Further, a search of the subject matter of either Group II or Group III would necessarily uncover the process of both Groups I and II. Specifically, both claim 33 of Group II and claim 39 of Group III recite processes using a hek-L polypeptide in a method of binding. Thus, if either of these two claims were searched, any existing art related to the subject matter of the other group would also be uncovered. Therefore, an examination of these three groups of claims together in one application would not entail an undue burden on the Examiner.

In addition, the MPEP states that any assertion and/or showing of distinctiveness or separateness can be rebutted by appropriate showings or evidence by the Applicant. In this regard, Applicants note that the inventions of Groups II and III are both classified in Class 435, subclass 7.1. Further, the Examiner has only made conclusory statements that the inventions are independent and distinct and has not supported these statements as is required when classification of both groups is identical by, for example, citation of patents as evidence of separate status in the art (MPEP § 808.02, ¶B). Thus, given the similar subject matter of the claimed inventions, *i.e.*, binding of polypeptides to a hek-L polypeptide, their identical classifications, and without specific evidence cited by Examiner, a *prima facie* showing of independence and distinctiveness has not been made.

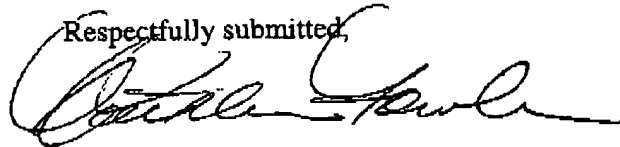
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CONCLUSION

Applicants respectfully submit that each of the pending claims of the subject application is in condition for allowance. If any issues remain after consideration of this Response, the Examiner is invited to telephone the below-indicated representative of the Applicants to discuss resolution thereof.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

March 22, 2002

Date



D. F. Lindholm

Immunex Corporation
USSN 09/904,954

Attorney Docket No. 2814-G

APPENDIX
VERSION WITH MARKINGS TO SHOW CHANGES MADE

The first paragraph on the first page of the specification, after the heading "CROSS-REFERENCE TO RELATED APPLICATIONS", has been replaced with the following:

This application is a divisional of application Serial No 09/358,734, filed July 21, 1999, [currently allowed] now U.S. Patent 6,274,117, which is a divisional of application Serial No 09/057,121, filed April 8, 1998, now U.S. Patent 5,969,110, which is a divisional of application Serial No. 08/453,943, filed May 30, 1995, now U.S. Patent 5,738,844, which is a divisional of application Serial No. 08/240,124, filed May 9, 1994, now U.S. Patent 5,516,658, which is a continuation-in-part of application Serial No. 08/161,132, filed December 3, 1993, now abandoned, which is a continuation-in-part of application Serial No. 08/114,426, filed August 30, 1993, now abandoned, which is a continuation-in-part of application Serial No. 08/109,745, filed August 20, 1993, now abandoned[.].

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FORMAL COMMUNICATION

U.S. Patent Application Serial No. 09/904,954
Filing Date: July 12, 2001
Applicants: M. Patricia Beckmann et al.
Attorney Docket No. 2814-G

ENCLOSED FOR FILING IN THE ABOVE-IDENTIFIED APPLICATION IS A RESPONSE TO RESTRICTION REQUIREMENT.